

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

www.ct.gov/csc

March 9, 2009

The Honorable Mark E. Lyon
First Selectman
Town of Washington
Bryan Memorial Town Hall
Washington Depot, CT 06794-0383

RE: **DOCKET NO. 378** – SBA Towers II, LLC application for a Certificate of Environmental Compatibility and Public need for the construction, maintenance and operation of a telecommunications facility located on one of two sites at Rabbit Hill Road, Warren, Connecticut.

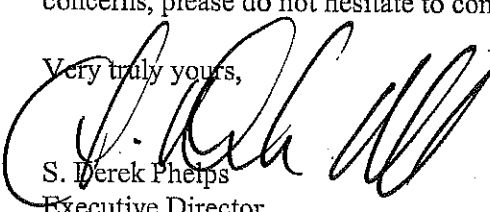
The Connecticut Siting Council (Council) is in receipt of a letter dated February 27, 2009, signed by you and Diane Dupuis, Chair, Cell Tower Committee, with regard to the above-referenced proceeding. This application was also received by our office on February 27, 2009, and involves two alternative sites, identified as Site A and Site B, on a 106-acre parcel of property owned by Lewis and Truda Tanner, on Rabbit Hill Road in Warren.

Your letter indicates that the Town of Washington considers (presumably) Site B to be a new application because it was not contained in its initial submittal to the municipality for the purposes of municipal consultation. You request, therefore, that the Council grant an additional 60-day municipal consultation period, pursuant to Connecticut General Statutes §16-50(e), to facilitate review of Site B.

To the extent that the Town of Washington seeks legal relief from the Council with respect to the question of whether a new application must be filed, and a new municipal consultation must be initiated for the second proposed cell tower location, this relief may only be provided, if indeed allowable by law, through formal action by the Council. To facilitate this action I wish to confirm whether you, and/or Ms. Dupuis, will represent the town in this proceeding in your official capacities, without retaining counsel, or if an attorney of record will be named on behalf of the Town of Washington.

I look forward to your response at your earliest convenience. If you have any questions or concerns, please do not hesitate to contact me. Thank you.

Very truly yours,


S. Derek Phelps
Executive Director

SDP/mab/laf

c: Diane Dupuis
Parties and Intervenors

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input checked="" type="checkbox"/> U.S. Mail	SBA Towers II, LLC	Carrie L. Larson, Esq. Pullman & Comley, LLC 90 State House Square Hartford, CT 06103-3702 (860) 424-4312 (860) 424-4370 fax clarson@pullcom.com
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		

TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL
POST OFFICE BOX 383
WASHINGTON DEPOT, CONNECTICUT 06794

The Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051
February 27, 2009

Via Fax and Certified Mail

Re: Rabbit Hill Road, Warren New Tower Proposal

Dear Council Members,

Enclosed please find correspondence between the towns of Washington and Warren and the attorney for Optasite/SBA requesting, per Ct State Statute 16-50 L subsection E, both a full technical report and the 60 day time period to examine said report and application on the above captioned proposal. Both towns consider the second site to be a new application. The first location on 422a farmland sits mid way up hill in a wooded area. The second location is on top of the ridgeline on an open farm site, next to a young family in completely different topography, vistas, neighborhood and environmental areas.

We respectfully request a full and accurate application complete with site evaluation, accurate propagation maps, accurate neighborhood maps, accurate environmental reports, and full RF report along with the 60 day time period granted by the above quoted state statutes so that we may evaluate and consider the appropriateness of this new location. We believe these are our rights under Connecticut state statutes and to deny these rights would be a violation of due process granted by the 14th amendment to our Constitution.

The Siting Council expect towns and interveners to participate fully in the process of responsible tower siting. When applicants do not provide accurate information in the pre application stage and towns receive notification of a new site less than two weeks before submission to the Siting Council, that process is corrupted and denies the towns, their selectmen and their commissions the ability to fully examine and discuss this application on its merits and liabilities. We respectfully request the Council grant the 60 day time period for this new site on Rabbit Hill Road in Warren and to deny this application from SBA until said application and time period have been completed.

Thank you.



Diane Dupuis, Chair Cell Tower Committee, Town of Washington



Mark Lyon, First Selectman, Town of Washington

CC: Carrie Larson for SBA

TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL
POST OFFICE BOX 383
WASHINGTON DEPOT, CONNECTICUT 06794

The Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051
February 27, 2009

Via Fax and Certified Mail

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Thank you.


Diane Dupuis, Chair Cell Tower Committee, Town of Washington


Mark Lyon, First Selectman, Town of Washington

CC: Carrie Larson for SBA

TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL
POST OFFICE BOX 383
WASHINGTON DEPOT, CONNECTICUT 06794

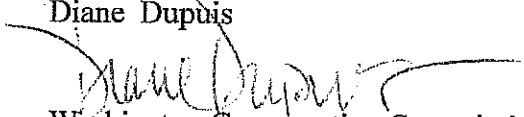
provide the accurate RF coverage maps we have requested if you feel you don't want to provide the ATT maps. In fact we formally request Verizon's propagation maps.

For the record, site B is not on the same parcel of property as site A, which is on 422a Land. There great differences in elevation, viewsheds, topography, sits directly on the ridgeline, is 80 feet off a young family's new home, combined with inaccuracies and missing components to this application.

We assert our rights under Ct state statutes 16-50 l and our constitutional rights to due process to be provided with an accurate and full technical report and the time provided in these statutes to examine the proposal before us to enable us to present an accurate description of the new site to the public and their representatives before the hearing process begins at the Siting Council.

Our letter requesting same will follow directly to the Siting Council.

Sincerely,
Diane Dupuis



Washington Conservation Commission
Cell Tower Subcommittee

The Washington Conservation Commission is charged with the review of this cell tower application.



First Selectman

TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL
POST OFFICE BOX 383
WASHINGTON DEPOT, CONNECTICUT 06794

February 22, 2009

Attorney Carrie Larson
Pullman and Comley
90 State House Square
Hartford, CT 06103-3702

Re: **New site** location for an Optasite cell tower on top of Rabbit Hill, Warren, CT

Dear Ms. Larson,

Per your letter dated February 11, 2009 to First Selectman Mark Lyon of the Town of Washington, the Conservation Commission requests a 60-day review period (pursuant to CT State Statute 16-50L, subsection E) for your **new cell tower site application**, located over a thousand feet from the previous site application, both within 2,500 feet of the Washington Town Line.

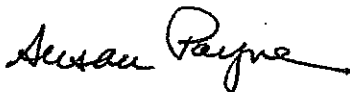
This site was not proposed in your initial application, nor did the town of Washington suggest this site in another town.

You did not show up when invited to the October 2008 Conservation Commission meeting, although the public was invited and in attendance. Instead you and your engineers arrived, unconfirmed and unannounced, to our November meeting, to which the public had not been invited. You have continued to ignore our requests for information.

Since this is a critical scenic and agricultural area in a densely populated neighborhood straddling a town line, it is of the utmost importance to the safety, health and well-being of the residents that a full public hearing is scheduled, an environmental report is provided, proper and complete propagation maps are presented, and you and the engineers are present to respond to questions from the public.

Please work directly with our First Selectman Mark Lyon to fulfill this request.

Thank you,



Susan Payne,
Chairperson, Conservation Commission

CC: CT Siting Council, Ten Franklin Square, New Britain CT 06051
Mark Lyon, First Selectman, Town of Washington

From: "Bruce S. Coleman" <bcoleman@meisterseelig.com>
Subject: FW: Warren letter
Date: February 25, 2009 5:09:17 PM EST
To: "diane dupuis" <dd9art@sbcglobal.net>
1 Attachment, 911 KB [Save](#)

-----Original Message-----

From: John Hart [mailto:hartpk5@earthlink.net]
Sent: Wednesday, February 25, 2009 3:33 PM
To: Bruce S. Coleman; diane dupuis
Subject: Warren letter



Town of Warren

Selectman's Office
7 Sackett Hill Rd
Warren CT 06754

ORIGINAL LETTER
MAILED 2-23-09

Carrie L. Larson
Pullman & Comely, LLC
Attorneys at Law
90 State House Square
Hartford CT 06103-3702

February 23, 2009

RE: Rabbit Hill Road, Warren, CT Telecommunication Facility

Dear Ms. Larson,

In response to your letter and report, we feel this is a new application and subject to the sixty (60) day review period, as well as a public hearing as per Connecticut General Statutes Section 16-501(e).

We request that you provide the Town of Warren with a full technical report. We will then arrange for a public hearing on the report and application.

The Board of Selectman looks forward to hearing from you.

Thank you,

Jack E. Travers
First Selectman

cc: Connecticut Siting Council



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140 East 45th Street, 19th Floor
New York, NY 10017
Telephone (212) 655-3500
Facsimile (212) 655-3535

Bruce S. Coleman
Special Counsel
Direct (212) 655-3557
Fax (646) 539-3657
bsc@msf-law.com

February 19, 2009

VIA FACSIMILE AND FIRST CLASS MAIL

First Selectman Jack Travers
Town of Warren
7 Sackett Hill Road
Warren, CT 06754

Dear First Selectman Travers:

I would like to thank you for taking the time to speak on the telephone with John Hart and me earlier this afternoon. We appreciate your agreement to send a letter to counsel to Optasite, with a copy to the Siting Council, requesting that a full technical report in compliance with the Connecticut General Statutes Section 16-501(e) be filed with the Town of Warren covering the new proposed cell phone tower site on Rabbit Hill Road.

For Optasite's counsel to suggest in her letter to you that the new proposed site was in some way recommended or supported by the residents of Warren or Washington, and therefore a full technical report on the new proposed site is not required, is a complete distortion of the comments made by Warren and Washington residents at the meeting held in September 2008. At that meeting, there was nearly universal opposition to a cell phone tower on Rabbit Hill Road.

As discussed during our call, the new proposed site is located more than 1,000 feet from the prior proposed site, is at a much higher elevation and presents its own issues. We note that nearly all of the objections to the prior proposed site on Rabbit Hill Road apply to the new proposed site as well. In addition, the new proposed site has certain unique features that create additional objections, not the least of which is the extraordinarily close proximity (approximately 100 feet) to an existing residence.

While I appreciate that a considerable portion of the Town of Warren may not have reliable cell phone service at the present time, the tower proposed to be located on



First Selectman Jack Travers

Page 2

February 19, 2009

Rabbit Hill Road is intended primarily to serve a portion of the Route 202 corridor in the Town of Washington and will provide limited additional cell phone service in the Town of Warren.

Again, thank you for your time.

Very truly yours,

A handwritten signature in black ink, which appears to read "Bruce S. Coleman". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Bruce S. Coleman

PULLMAN & COMLEY, LLC
ATTORNEYS AT LAW

CARRIE L. LARSON
90 State House Square
Hartford, CT 06103-3702
p (860) 424-4312
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clarson@pullcom.com
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RECEIVED
FEB 25 2009
TOWN OF WASHINGTON

February 20, 2009

VIA FACSIMILE (860)-868-3103

First Selectman Mark E. Lyon
Town of Washington
2 Bryan Plaza
Washington Depot, CT 06794

Re: Rabbit Hill Road, Warren, Connecticut; Proposed Telecommunications Facility

Dear First Selectman Lyon:

I am in receipt of your correspondence dated February 17, 2009.

The Town of Washington has been aware, since November, that SBA intends to propose the alternate Site B in its application to the Siting Council. As stated previously, the proposal of Site B is within the scope of the original technical report filed in August, 2008. It is on the same parcel of property and is only 730 feet away from Site A. In addition, SBA voluntarily conducted a public balloon float and flew balloons at both the original Site A and Site B. In addition, SBA has provided the Town of Washington with all of the pertinent information related to Site B that would otherwise be included in a technical report.

I note that your correspondence refers to another town informational meeting. At your written request, SBA has already attended a public informational session concerning its technical report, during which the Site B alternate was discussed. I note that not a single member of the public appeared at the public informational session to comment on the proposal.

In addition, as explained previously, the Verizon tower located on Mountain Road has not been included in the propagation analyses because AT&T has not installed its antennas and equipment on that facility.

PULLMAN & COMLEY, LLC
ATTORNEYS AT LAW

Page 2

SBA will be filing its application with the Siting Council before the end of February for its proposed facility on Rabbit Hill Road in Warren. The Town of Washington will receive copies of that application as required by Connecticut General Statutes. As stated previously, all materials received from the Town of Washington will be included in that application. As I am sure you are aware, the Town of Washington has numerous opportunities to submit additional comments or questions to the Siting Council during its review of SBA application. Please let me know if you have any questions.

Respectfully,



Carrie L. Larson

cc: Charles Regulbuto

Hartford/72517.5/CLARSON/353984v1

TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL
POST OFFICE BOX 383
WASHINGTON DEPOT, CONNECTICUT 06794

Ms. Carrie Larson
Pullman & Comley
90 State House Square

Hartford, CT 06103-3702

VIA CERTIFIED MAIL

February 17, 2009

Re: Rabbit Hill Road, Warren, CT

Dear Ms. Larson,

We are in receipt today of your letter dated February 11, 2009, which includes site plans, and view shed and propagation maps for a new tower site on top of Rabbit Hill in Warren. This site was not proposed in our initial application process. This new tower is located over one thousand feet from the first tower proposal, sits at a much higher elevation, has completely different topography, habitat, view sheds and neighborhoods, in fact, this tower would be located within one hundred feet of a young family's home.

Contrary to information in your letter, the town of Washington did not propose this location.

Per the Ct State statutes 16-50 L, subsection E, we consider this to be a new proposal and request the 60 day time period to review this application. That time period would allow our commission members and selectmen an opportunity for review and allow for our town to hold a town meeting so that we may issue our good faith recommendations as per the above referenced statutes.

With just a cursory view we noticed that the propagation map provided does not include the coverage from the new tower location on Rt. 202 of which ATT and Verizon are co-locators. You did send us an updated map per our request in September, but that map continues to be missing in each new presentation. Also, there is no site evaluation or environmental report and the report contains numerous other discrepancies.

In summation, we consider this site to be a completely new proposal, believe we are entitled to a 60 day review period and respectfully request same.

Sincerely,



Diane Dupuis
Chair Cell Tower Committee

CC: Connecticut Siting Council

+ MARK LYON
FIRST selectman
town of washington

PULLMAN & COMLEY, LLC
ATTORNEYS AT LAW

COPY 2 sides

CARRIE L. LARSON
90 State House Square
Hartford, CT 06103-3702
p (860) 424-4312
f (860) 424-4370
clarson@pullcom.com
www.pullcom.com

February 11, 2009

VIA FEDERAL EXPRESS

First Selectman Mark E. Lyon
Town of Washington
2 Bryan Plaza
Washington Depot, CT 06794

RECEIVED
FEB 12 2009
TOWN OF WASHINGTON

Re: Rabbit Hill Road, Warren, Connecticut; Proposed Telecommunications Facility

Dear First Selectman Lyon:

This is a follow-up to our correspondence in November, 2008. Please find enclosed the site plans, viewshed map and propagation maps from AT&T related to the alternate telecommunications site SBA Towers II, LLC ("SBA") is proposing on Rabbit Hill Road in Warren ("Site B"). As discussed previously, while SBA is happy to provide this requested information, this does not constitute a second technical report under Connecticut General Statutes section 16-50l. The Site B is being proposed in addition the originally-proposed site as a direct result of the comments received from both the Towns of Warren and Washington and the residents thereof during the municipal consultation period for the original site. Therefore the addition of Site B is within the scope of the first technical report filed on August 20, 2008 and this will not trigger a second 60-day municipal consultation period.

Site B is also located on the Tanner property. AT&T requires a minimum height of 150' at Site B, as reflected in these documents. Please note that, during the public balloon float that occurred on November 20, 2008, the balloon at Site B was flown at a height of 160'. Subsequently, AT&T determined that it only required a height of 150' at Site B.

In the interim, SBA has also received indications from both Verizon Wireless and T-Mobile that they are interested in co-locating on the proposed facility. As the plans indicate, the facility at either alternate is designed to accommodate all carriers currently active in Connecticut.